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			KISS, ERIC B	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/726,447

Applicant(s)

ISLAM ET AL.

Examiner

Eric B. Kiss

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The reply filed December 18, 2007, has been received and entered. Claims 1-15 are pending.

Response to Amendment

2. Applicant's comment regarding the Declaration, (Remarks p. 8), is noted. The objection is maintained as a Supplemental Declaration has not yet been submitted.
3. The rejection of claims 4, 9, and 11-15 under 35 U.S.C. § 101 is withdrawn in view of applicant's amendments.
4. The rejection of claims 2-5, 8, 9, and 12-15 under 35 U.S.C. § 112, second paragraph, is withdrawn in view of applicant's amendments.

Response to Arguments

5. Applicant's arguments filed December 18, 2007, have been fully considered but they are not persuasive.

Fanshier discloses compiling the application on an administrative server (information about the application, included the source 124 of an application archive file or directory is provided to a master deployer in an administration server 102 through the use of deployment tool 100). Fanshier further discloses deploying the application from the central application repository (e.g., application source 124; see also col. 4, lines 5-8 (the source location can include a local directory or a file on an administrative server); col. 4, lines 12-14 (staging of an application can involve the distribution of the application from an administrative server to a managed server)).

Information Disclosure Statement

6. The examiner will fully consider the cited reference at such time as applicant provides a new information disclosure statement in compliance with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

Oath/Declaration

7. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c).

Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. MPEP § 605.04(a).

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-15 are rejected under 35 U.S.C. 102(c) as being anticipated by U.S. Patent No. 7,206,817 (Fanshier et al.).

Regarding claim 1, *Fanshier et al.* discloses a method, comprising:

assembling files for an application (see, e.g., col. 2, lines 53-55);

compiling the files into an application on an administration server, wherein the administration server is coupled to a central application repository storing the application in the central application repository (see, e.g., col. 2, lines 55-59 (information about the application, included the source 124 of an application archive file or directory is provided to a master deployer in an administration server 102 through the use of deployment tool 100));

after successfully compiling the application on the administration server, deploying the application from the central application repository (e.g., application source 124) onto a plurality of servers in a cluster of servers (see, e.g., col. 2, lines 57-64; see also col. 4, lines 5-8 (the source location can include a local directory or a file on an administrative server); col. 4, lines 12-14 (staging of an application can involve the distribution of the application from an administrative server to a managed server));

starting the application on the plurality of servers (see, e.g., col. 2, lines 64-67).

Regarding claim 2, *Fanshier et al.* further discloses:

storing a different version of the application in the central application repository (see, e.g., col. 6, lines 10-16; col. 8, lines 4-8);

deploying the different version of the application onto a plurality of servers in the cluster of servers, wherein the application and the different version of the application may simultaneously execute on different servers in the cluster of servers (see, e.g., col. 6, lines 10-16; col. 8, lines 4-8); and

starting an older version of the application on a subset of servers such that the older version and a current version of the application simultaneously execute (see, e.g., col. 6, lines 10-39).

Regarding claim 3, *Fanshier et al.* further discloses:

assembling comprises assembling the files into a single archive file (see, e.g., col. 2, lines 32-36).

Regarding claim 4, *Fanshier et al.* further discloses:

said files comprise a set of source code and related resource files of the application (see, e.g., col. 3, lines 11-30), the method further comprising validating that said compiling the files into the application has been performed without errors (see, e.g., col. 2, lines 38-49 (discussing a load-and validate phase)), where said validating is performed prior to performing said deploying the application to any of the plurality of servers in the cluster (see, e.g., col. 2, lines 38-49 (the validation is performed prior to copying or moving the files from their staging to the production or deployment directories)).

Regarding claim 5, *Fanshier et al.* further discloses deploying the different version of the application comprises:

stopping an instance of the application on a server (see, e.g., col. 2, lines 38-50; col. 6, lines 1-28);

loading the different version of the application on the server (see, e.g., col. 2, lines 38-50);

associating the instance of the application with the different version of the application on the server (see, e.g., col. 2, lines 38-50);

starting the instance of the different version of the application on the server (see, e.g., see, e.g., col. 2, lines 38-50; col. 6, lines 1-28).

Regarding claims 6-15, these are system and media claims substantially paralleling the limitations in method claims 1-5. *Fanshier et al.* further discloses the use of such systems and media (see, e.g., Figure 1 and col. 2, lines 32-67) in implementing the prescribed steps, and all other limitations have been addressed as set forth above.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric B. Kiss whose telephone number is (571) 272-3699. The Examiner can normally be reached on Tue. - Fri., 7:00 am - 4:30 pm. The Examiner can also be reached on alternate Mondays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Tuan Dam, can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 2192

Any inquiry of a general nature should be directed to the TC 2100 Group receptionist:

571-272-2100.

/Eric B. Kiss/

Eric B. Kiss

Primary Examiner, Art Unit 2192